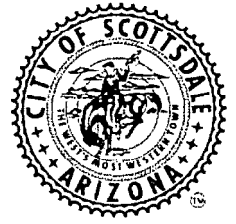


CITY COUNCIL REPORT



Meeting Date: Tuesday, April 27, 2010
General Plan Element: ***Neighborhoods***
General Plan Goal: ***Enhance and protect neighborhoods***

ACTION

Approve Ordinance 3891, Scottsdale City Court Home Detention and Electronic Monitoring Program.

BACKGROUND

A.R.S. § 9-499.07 is the statutory authority for a city to establish a home detention program for eligible offenders. As jail costs escalate and recent (2009) legislation increased sanctions for driving under the influence (DUI) offenses, the City Court evaluated alternatives to incarceration in a full time custodial agency such as the Maricopa County Sheriff's Office (MCSO) Jail. In 2009 the legislature enacted new legislation that did not allow for any suspended jail time for first offense extremes and all second offenses. It also created a super extreme category that requires 180 days in jail with no suspension of jail time allowed. Current MCSO incarceration costs include \$192.26 for the first day and \$71.66 for every day thereafter; last year the City Court assessed over \$3 million in jail fees that had to be paid to MCSO. The court collects 50 to 60% of the assessed jail fees from a variety of collection efforts, both internally and externally based.

In addition to potential cost savings, the home detention and electronic monitoring program is an additional sentencing option for the City Court judges. The program includes a blend of punishment and rehabilitation; it also provides the defendant stability in the community while offering minimal risk to the community. Although, according to current Arizona statutes, offenders are required to serve a minimum of fifteen (15) days in the MCSO jail, under a home detention and electronic monitoring program, the offender is able to enter treatment and pay court ordered fines and fees in a more expedient fashion.

This ordinance also requires the establishment of a community restitution work committee for the purpose of identifying appropriate community restitution work.

ANALYSIS & ASSESSMENT

Recent Staff Action

The home detention and electronic monitoring program requires the creation of an ordinance, which has included a review by the City Attorney, defense attorneys, Scottsdale City Court Associate Judges and court staff. Further, a survey of local courts revealed that a home detention and electronic monitoring program is in existence in the following city courts: Phoenix, Tempe, Mesa, Chandler, Glendale, Surprise, Goodyear, Marana and the Maricopa County Superior Court.

The court has identified program conditions, which include requirements requested by the Criminal Justice Team (CJT) and the City Attorney, and these program conditions will also be used during the solicitation process and the ultimate goal of efficient program implementation. In addition, program metrics are being identified, including a means to track and report on the metrics at quarterly intervals. A program presentation was made individually to City Council members, the City Criminal Justice Team, Scottsdale Police Command Staff and the City Attorney. The home detention and electronic monitoring program has the approval of the City Court Presiding Judge, as required by A.R.S. §9-499.07.

Policy Implications

There are no policy implications for Council consideration at this time.

Significant Issues to be Addressed

Among the issues to be addressed are possible changes to the empowering statute (A.R.S. §9-499.07), as a result of legislative action. Should statutory changes occur, revisions to the City Ordinance will be requested.

Community Involvement

The City Court has contacted the following in regard to the requested Ordinance: Mothers Against Drunk Drivers (MADD) organization, the Arizona Supreme Court Commission on Victims in the Courts (COVIC), local defense attorneys, and the City Criminal Justice Team (comprised of the Scottsdale Police Department, the City Prosecutor and Victim Services, and City Court staff).

RESOURCE IMPACTS

Available funding

The program is paid for by the defendant, unless the court finds the person unable to pay some or all fees. In those situations, the intent of the court is to have the contracted vendor provide the service at a discounted cost. Consideration may be given to the use of the jail budget for indigent defendants that qualify for home detention and electronic monitoring but are unable to pay.

Staffing, Workload Impact

Staffing and workload impact includes the implementation of the program, tracking methods for the metrics (which may include some technology programming), conducting the vendor solicitation process, monitoring and overseeing the program and contracts, and reporting out or publishing the metrics. For program implementation, it is the intent that any workload will be absorbed by current court staff.

Future Budget Implications

There are no anticipated future budget implications. The projected annual general fund jail cost savings is estimated at \$500,000.

Cost Recovery Options

There is no anticipated program cost recovery; program costs are borne by program users.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach

Adopt ordinance No. 3891, authorizing the establishment of the Scottsdale City Court Home Detention and Electronic Monitoring Program.

Description of Option B

Do not approve the ordinance and do not implement a home detention and electronic monitoring program.

Proposed Next Steps

Upon the approval of the ordinance, the City Court will proceed with the solicitation process for the selection of a vendor, create court forms and processes to implement the program, train court staff and judges, and establish program requirements.

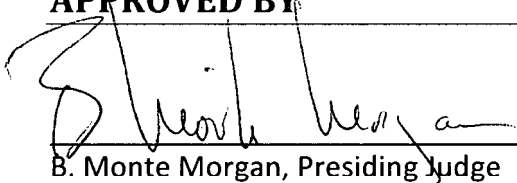
RESPONSIBLE DEPARTMENT(S)

City Court

STAFF CONTACTS (S)

Janet G. Cornell, Court Administrator, 480-312-2775, jcornell@scottsdaleaz.gov

APPROVED BY



B. Monte Morgan, Presiding Judge
480-312-2772, c/o jcornell@scottsdaleaz.gov

4-13-2010

Date

ATTACHMENTS

1. Ordinance No. 3891
2. Citizen correspondence

ORDINANCE NO. 3891

AN ORDINANCE OF THE CITY OF SCOTTSDALE, ARIZONA,
ADDING SECTION 9-16 TO THE SCOTTSDALE REVISED CODE,
RELATING TO THE CREATION OF A HOME DETENTION AND
ELECTRONIC MONITORING PROGRAM.

WHEREAS, the City Council believes it would be in the best interest of the City to create a home detention and electronic monitoring program for certain persons convicted of driving under the influence; now, therefore,

BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. Section 9-16 is hereby added to the Scottsdale Revised Code and shall read as follows:

Sec. 9-16. Home detention and electronic monitoring program.

If a person is sentenced to jail confinement by the city court, the judge may substitute home detention and electronic monitoring for a portion of the jail term as provided in this section.

(1) *Definitions.*

- (a) *Electronic monitoring device* means equipment able to confirm continuously the location of the person to whom it is issued.
- (b) *Home detention and electronic monitoring program* means a sentence that allows a person to be released from jail, but requires the person to wear an electronic monitoring device and conform to court ordered requirements.
- (c) *Provider* means a person that has entered into a contract with the City of Scottsdale to provide the following services:
 - 1. Issuance of electronic monitoring devices;
 - 2. Continual monitoring of electronic monitoring devices; and
 - 3. Furnishing of testing for alcohol and/or drug use.

(2) *Eligibility.* A person is eligible for the Home Detention and Electronic Monitoring program if:

- (a) The person is eligible under A.R.S. § 9-499.07, and
- (b) The person is sentenced under A.R.S. § 28-1381(K) or § 28-1382(D) or (E) and has satisfied the requirements of those sections.
- (c) The judge states at the time of sentencing that the person is eligible for the home detention and electronic monitoring program.
- (d) The person does not constitute a risk to himself or other members of the community.
- (e) The person does not have a history of violent behavior.

(3) *Committee required.*

- (a) A committee shall be appointed to recommend appropriate community restitution work for the Home Detention and Electronic Monitoring program.
- (b) The committee shall include members of the city court, police department, city attorney's office, member of the defense bar and parks and recreation department.

(4) *Provider required.* Before any person may participate in the Home Detention and Electronic Monitoring program, the City shall have entered into a contract with one or more providers to implement the Home Detention and Electronic Monitoring program and the provider is subject to contractual language regarding notification and requirements set forth in the contract.

(5) *Requirements of the Home Detention and Electronic Monitoring program.*

- (a) Except as provided in subsection (6) below, a person participating in the Home Detention and Electronic Monitoring program shall, as specified by the city court, comply with A.R.S. § 9-499.07.
- (b) The city court shall require the person to pay the fees set forth in A.R.S. § 9-499.07 unless the city court finds that the person is unable to pay some or all of the fees.
- (c) A person shall serve a minimum of fifteen (15) consecutive days in jail before placement in the Home Detention and Electronic Monitoring program.
- (d) Except as provided in subsection (6) below, a person shall remain at home during the hours specified by the city court.
- (e) A person shall submit to drug and alcohol testing as directed by the city court.

(6) *Exemptions from the requirements of the Home Detention and Electronic Monitoring program.* As specified by, and with prior approval of, the city court, the city court may allow a person participating in the Home Detention and Electronic Monitoring program to:

- (a) Be employed outside the home;
- (b) Conduct community restitution work;
- (c) Attend classes at accredited educational institutions;
- (d) Attend funerals and religious services; and
- (e) Attend medical appointments.

(7) *Terminating participation in the Home Detention and Electronic Monitoring program.*

- (a) The city court shall terminate a person's participation in the Home Detention and Electronic Monitoring program, and require the person to complete the jail sentence, if the city court finds:
 - 1. The person failed to successfully complete a city court ordered program.
 - 2. The person left the premises without permission of the city court or supervising authority during a time the person is ordered to be on the premises.

- (b) At any other time the city court may terminate a person's participation in the Home Detention and Electronic Monitoring program.
- (c) The city court shall take action within five (5) days upon receiving notice that a person is not eligible for the Home Detention and Electronic Monitoring program or has violated any of the requirements of the Home Detention and Electronic Monitoring program.
- (d) Upon termination, the person shall complete the remaining term of the jail sentence by jail confinement.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Arizona, this 27th day of April, 2010.


ATTEST:

CITY OF SCOTTSDALE, an
Arizona municipal corporation

Carolyn Jagger, City Clerk

W.J. "Jim" Lane, Mayor

APPROVED AS TO FORM:



Bruce Washburn, City Attorney
By: Paul M. Norman
Senior Assistant City Attorney

Butteweg, Cathleen

From: mcquadeanne@hotmail.com
Sent: Wednesday, April 14, 2010 8:15 AM
To: Agenda Planner Site
Subject: Home Detention and Electronic Monitoring
Importance: High

City of Scottsdale Email

Good Morning: I wanted to introduce myself as well as give a little insight on my thoughts regarding the Home Detention and Monitoring program. I know that Mesa City Court has been very successful in this program as well as saving the city money. Hopefully, we will eventually see this in all the courts. I believe that not only implementing this program into the Courts would be beneficial in a costly manner to the city, it would also give the Defendant a chance to learn how to take responsibility for their actions and be accountable. The process of this would be as follows: a) Ordered by the court to contact the agency within 48hrs with the specific orders according to what the court is requesting b) The defendant then schedules an appointment c) When the defendant arrives for the appointment, they are taken through detailed instructions according to the order and then are hooked up to the device. A schedule is also implemented allowing the defendant a certain amount of time for their work schedule d) This device is monitored by the agency very closely for any violations that may occur e) Once a week, the defendant must come into the agency to make a payment towards the balance due and check in with the home detention officer, this is done until the amount of days are served that were ordered by the court. Implementing this program will be beneficial not only in saving the city an enormous amount of money, the defendant will be responsible for the cost of the crime instead of the city if he went to jail. This will enforce the defendant to be responsible as well as accountable through the process of the treatment. I am looking forward to this meeting as well as hopefully meeting with you. Thank You,



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